

EXHIBIT B

FILED
Sep 05, 2013
Court of Appeals
Division III
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

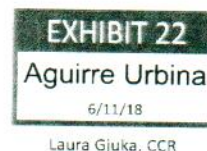
)
)
) NO. 316866
)
) PERSONAL RESTRAINT PETITION
)
FERNANDO F. AGUIRRE URBINA

A. STATUS OF PETITIONER

I, Fernando Francisco Aguirre Urbina
c/o Northwest Immigration Detention Center
1623 E. J Street, #5
Tacoma, WA 98421

Apply for relief from confinement. I am now in custody because of the following type of court order: I am under Immigration and Customs Enforcement hold pending removal proceedings.

1. The court in which I was sentenced is: Yakima County Superior Court.
2. I was convicted of the crimes of: Count 1- Delivery of a Controlled Substance,
Methamphetamine
Count 2- Possession of a Controlled Substance, Methamphetamine, With Intent
To Deliver
Count 3- Possession of a Controlled Substance, Marijuana, With Intent To
Deliver.
3. I was sentenced after (check one) Trial ☐ Plea of Guilty ☒ on 05/31/2012.
Date of Sentence
4. The Judge who imposed sentence was Hon. Michael G. McCarthy.
5. My lawyer at trial court was Mickey L. Krom.
Name and Address if known
- 6 S. 2nd St., Ste. 317, Yakima, WA 98901-2629.



6. I did ___ did not X appeal from the decision of the trial court. (If the answer is that I did), I appealed to: _____.

Name of court or courts to which appeal took place

7. My lawyer for my appeal was: N/A _____.
Name and address if known or write "none"

The decision of the appellate court was _____ was not _____ published. (If the answer is that it was published, and I have this information) the decision is published in _____.

8. Since my conviction I have X have not _____ asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked, the court I asked was Yakima County Superior Court _____). Relief was denied on

Name of court

05/24/2013 _____.

Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was Brent A. De Young, WSBA #27935 _____.

Name and address if known

P.O. Box 1668, Moses Lake, WA 98837 _____.

9. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here: _____.

I asked the Yakima Superior Court to vacate my guilty plea and judgment and sentence _____.

B. GROUNDS FOR RELIEF:

(If I claim more than one reason for relief from confinement, I will attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc). I claim that I have 2 reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

| Name of creditor you owe money to | Address | Amount |
|--------------------------------------|---------|--------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

D. REQUEST FOR RELIEF

I want this court to:

☒ vacate my conviction and give me a new trial
☐ vacate my conviction and dismiss the criminal charges against me without a new trial
☐ other (specify) _____

E. OATH OF PETITIONER

THE STATE OF WASHINGTON)
) ss.
 County of PIERCE)

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

FERNANDO AGUIRRE
 [sign here]

SUBSCRIBED AND SWORN to before me this 24 day of JUNE.

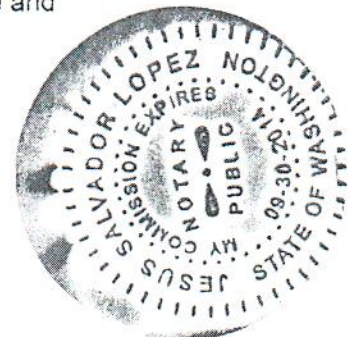
[Signature]
 Notary Public in and for the State
 of Washington, residing at KENT, WA

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a notary: N/A

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

6/24/13 [date].
FERNANDO AGUIRRE
 [sign here]



No. 316866

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

| |
|--|
| STATE OF WASHINGTON, Plaintiff/Respondent, vs. FERNANDO F. AGUIRRE URBINA, Defendant/Petitioner. |
|--|

APPENDIX A
(SEALED MEDICAL AND HEALTH RECORDS)

No. 316866

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Respondent,

vs.

FERNANDO F. AGUIRRE URBINA,
Defendant/Petitioner.

DECLARATION OF TRIAL COUNSEL
MICKEY L. KROM

1. I am Attorney Mickey L. Krom
2. My Washington State Bar number is 7064.
3. I have been in practice in Washington State since October 27, 1976. I am not subject to any disciplinary orders.
4. I was Mr. Aguirre Urbina's appointed counsel in the above-noted matter in the Yakima County Superior Court. I have reviewed my case file for this matter in making this declaration. I have also been provided a copy of the Defendant's declaration dated August 3, 2013 and also a copy of the superior court's case file.
5. I was aware that Mr. Aguirre Urbina was not a U.S. citizen and was deportable if he accepted the State's plea offer, and, I so advised him. I further advised that I expected he would be deported if he accepted the State's plea offer.

APPENDIX B

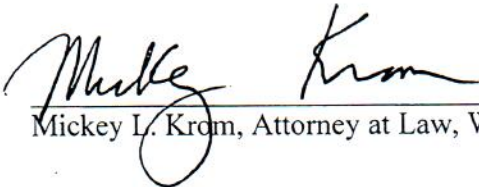
MICKEY KROM
ATTORNEY AT LAW
6 South 2nd Street, Suite 317
Yakima, Washington 98901
Office: (509) 457-6909
Fax: (509) 575-3932

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6. I went over both the guilty plea and the judgment and sentence with Mr. Aguirre Urbina.

7. I was aware that Mr. Aguirre Urbina had some mental health issues at the time of his plea and sentencing. He appeared competent to me at that time. Neither insanity nor diminished capacity defenses seemed to apply to the facts of his case. At no time did Mr. Aguirre Urbina tell me the version of events contained in his declaration.

Signed under penalty of perjury under the laws of the State of Washington at Yakima, Washington this 9th day of August, 2013.



Mickey L. Krom, Attorney at Law, WSBA #7064

No. 316866

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Respondent,

vs.

FERNANDO F. AGUIRRE URBINA,
Defendant/Petitioner.

DECLARATION OF ATTORNEY
TAMERTON GRANADOS

1. I am Attorney Tamerton Granados
2. My Washington State Bar number is 40103.
3. I have been in practice in Washington State since 2008. I am not subject to any disciplinary orders.
4. I currently represent Mr. Aguirre Urbina in the matter of his removal proceedings.
5. I met with Brent De Young on August 15, 2013 regarding some of our mutual clients. At that time, I asked him about the status of Mr. Aguirre Urbina's post-conviction relief case. He advised me that he was not aware that I was still representing Mr. Aguirre Urbina because another attorney had been helping him at the Northwest Detention Center. I informed Mr. De Young that I was still representing Mr. Aguirre Urbina and am still the attorney of record in his removal proceedings.
6. Before Mr. Aguirre Urbina was arrested, I met with him a number of times at my office. On these occasions, Mr. Aguirre Urbina exhibited some very strange behavior. At one of our

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APPENDIX C

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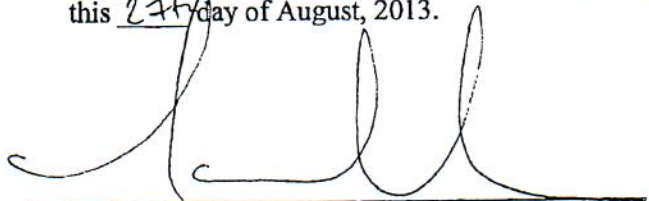
appointments, he came dressed in a batman costume. It was not Halloween, and there was no other reason for him to be dressed in a costume. Our conversations during our appointments, his strange behavior, and his attire led me to believe that he may have some kind of mental health issue. I was not aware of the extent of his mental health issues, however, until I read Dr. Valdez's psychological evaluation.

7. Mr. Aguirre Urbina also indicated to me that he might have been diagnosed with a learning disability or developmental delay. He was sure that he did receive some special help or accommodations at school, but he was unsure of exactly what level of assistance was provided.

8. After Mr. Aguirre Urbina was arrested, he contacted me to advise me of his arrest. Once I found out that Mickey Krom had been appointed as his defense counsel, I contacted Mr. Krom. I tried calling Mr. Krom twice, but was not able to reach him. Since I could not reach him by phone, I asked to speak with him outside of court. During my first conversation with Mr. Krom, I advised him that Mr. Aguirre Urbina thought he had a diagnosed learning disability or developmental delay and that I thought he may have some mental health issues. I suggested that he consider having Mr. Aguirre Urbina evaluated by Eastern State Hospital due to these concerns.

9. Approximately one month later, I followed up with Mr. Krom about the mental competency evaluation. He advised me that, in his opinion, Mr. Aguirre Urbina was mentally competent and could assist in his own defense. For that reason, he opted not to have him evaluated.

Signed under penalty of perjury under the laws of the State of Washington at Yakima, Washington
this 27th day of August, 2013.



Tamerton Granados, Attorney at Law, WSBA #40103

**YAKIMA COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF WASHINGTON**

| | | |
|--------------------------|---|----------------------|
| STATE OF WASHINGTON, |) | No. 12-1-00065-0 |
| |) | |
| Plaintiff, |) | DECLARATION OF THE |
| |) | DEFENDANT – FERNANDO |
| v. |) | AGUIRRE URBINA |
| |) | |
| FERNANDO AGUIRRE URBINA, |) | |
| |) | |
| Defendant. |) | |
| |) | |

1. I am Fernando Aguirre Urbina, the Defendant in the above-noted case.
2. I remember back in high school that he (the enemy) would talk to me in my head, and that if I didn't do something right I had to do it again and again until I did it right. If I walked or dressed in the wrong way that I had to go back and re-dress myself all over again or I had to go back and to walk back again but correctly. It happened more at home during the time that I was in high school.
3. My last year in high school the enemy told to stare at the sun. I couldn't refuse to do it. I think now that this damaged my eyesight. When I tried to refuse to do it then I got an intense anxiety attack and I would feel very helpless. I had to do something then to let him know that I understood he was in control.

DECLARATION OF THE DEFENDANT
FERNANDO AGUIRRE URBINA

Page 1 of 4

Brent A. De Young
Attorney at Law
P.O. Box 1668
Moses Lake, WA 98837
TEL: (509) 764-4333 FAX: (1-888) 867-1784

- 1 4. During my last year in high school, I would lock myself in the rest room at home. The
2 enemy made me pick up different things over and over again until he was satisfied. I got
3 mad when someone like my mom or my sister yelled at me to get out of there. I went
4 there to hide so nobody would see that I was being controlled by the enemy.
5
- 6 5. After high school the enemy was very strong. I couldn't even open my car door correctly
7 without thinking and worrying that I was doing it correctly.
- 8 6. I started smoking marijuana during high school to block out the enemy. I couldn't hear
9 his voice when I was high.
- 10 7. In 2010 I was sent to the immigration court. I was caught driving without my license. I
11 got out after three or four days in Tacoma. After I was out, the enemy told me that I
12 needed money to hire a lawyer to help me with my immigration.
- 13 8. The enemy said that he would protect me if I sold drugs to get money for the lawyer.
14 When I scared to do this, he would put negative thoughts in my head that my son wasn't
15 really mine or that my daughter was in torment and suffering. Every time I wouldn't
16 want to do what the enemy said he would put these vague imaginations into my mind to
17 control me.
- 18 9. I remember that everything became worse when I ordered some holy water from TV.
19 That was in December of 2011. After this either I made God angry because of the way
20 that I was living under the enemy, or it was the enemy attacking me because he thought I
21 wasn't paying attention to him at all times as I should. I started feeling then always
22 depressed.
23
- 24 10. When I got arrested at my house, it all seemed like a dream to me. I started feeling then
25 that I was watching it on TV and that it wasn't really happening.
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DECLARATION OF THE DEFENDANT
FERNANDO AGUIRRE URBINA

Page 2 of 4

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1 11. The day before they raided my house I was driving in the country. It was during the
2 daytime, but I couldn't stop myself from falling asleep. I tried to park my car. I put my
3 radio on the Christian station very loud. The enemy loudly told me that I wasn't going
4 anywhere. I finally barely got my car parked and I fell right asleep. I was not under the
5 influence of any alcohol or drugs at the time that this happened. I felt during this time
6 period that I was in the middle of the battle between God and the enemy. I would talk to
7 God and would pray a lot. But because of what I had to do for the enemy I wasn't sure
8 that God was listening to me at that time.
9

10 12. The voice that I found out was called "the enemy" was with me for several years before I
11 connected his name to the enemy.

12 13. The enemy is not Satan. I understand that Satan is the fallen angel. The enemy is
13 something much different.

14 14. During my court, my attorney Mr. Krom seemed like he was in a big hurry. There was
15 never enough time to ask him about my case. One time he offered me to go to drug court
16 because I told him that I was smoking marijuana all the time. I didn't quite understand
17 about drug court and told Mr. Krom that I didn't really understand about it. Mr. Krom
18 said that I wouldn't make it in drug court and told me just to forget about it. We never
19 talked about it again after that.
20

21 15. I was feeling very upset and confused at the time I was in jail and court. I didn't
22 understand that what was really happening. The enemy was present with me in the court
23 and in the jail. He told me that everything would be okay. He said that he had a plan.

24 16. When I was going to court for the last time in Yakima, one of the guards started whistling
25 in front of me. This was the enemy making fun of me. The enemy was also the angel of
26 music.
27

28 DECLARATION OF THE DEFENDANT
FERNANDO AGUIRRE URBINA

Page 3 of 4

Brent A. De Young
Attorney at Law
P.O. Box 1668
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TEL: (509) 764-4333 FAX: (1-888) 867-1784

1 17. Mr. Krom told me that he didn't care what I did that it was not his life but mine. I knew
2 this meant that I needed to get this over with. I then pleaded guilty. The enemy was
3 playing with me all through this. The judge was then saying that he wasn't going to let
4 me plead guilty. Just before this the enemy had told me that he would take care of me if I
5 just got this done.
6

7 18. I feel much better now that I'm getting some treatment here at the detention center in
8 Tacoma. The enemy isn't gone yet. I do understand now how he controls me.

9 19. I have been here in this country since I was three years old. I am afraid that if I return to
10 Mexico I won't be able to continue my treatment and that I will go back to all of the
11 problems that I had before with the enemy. I really want to get well and stay well now.
12

13
14 I swear under penalty of perjury under the laws of the State of Washington that the foregoing
15 in true and correct to the best of my knowledge.

16 DATED: This 3rd day of August, 2013.
17

18
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20 Fernando Aguirre Urbina
21 Fernando Francisco Aguirre Urbina
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28 DECLARATION OF THE DEFENDANT
FERNANDO AGUIRRE URBINA

Page 4 of 4

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Attorney at Law
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Moses Lake, WA 98837
TEL: (509) 764-4333 FAX: (1-888) 867-1784

COURT OF APPEALS, DIVISION III,
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Plaintiff/Respondent,
vs.
FERNANDO F. AGUIRRE URBINA,
Defendant/Petitioner.

NO. 316866

PETITIONER'S PERSONAL
RESTRAINT PETITION

CERTIFICATE OF MAILING

I certify that on this 5th day of September, 2013, I caused to be sent by U.S. Mail,
first-class postage prepaid, a copy of Petitioner's Personal Restraint Petition to:

Yakima County Prosecuting Attorney
128 N. 2nd St., Room 329
Yakima, WA 98901

Fernando Francisco Aguirre Urbina
c/o Northwest Detention Center
1623 E. J Street, Suite 5
Tacoma, WA 98421

/s/
Brent A. De Young, WSBA #27935
Attorney for Petitioner

DE YOUNG LAW OFFICE

September 05, 2013 - 12:29 PM

Transmittal Letter

Document Uploaded: prp-090513 Aguirre Urbina, Fernando Francisco - Separate Personal Restraint Petition with Appendices.pdf

Case Name: State of Washington v Fernando Francisco Aguirre Urbina

Court of Appeals Case Number:

Party Represented: Petitioner

Is This a Personal Restraint Petition?

☒ Yes ☐ No

Trial Court County: Yakima - Superior Court # 12-1-00065-0

Type of Document being Filed:

- ☐ Designation of Clerk's Papers
- ☐ Statement of Arrangements
- ☐ Motion: _____
- ☐ Response/Reply to Motion: _____
- ☐ Brief
- ☐ Statement of Additional Authorities
- ☐ Affidavit of Attorney Fees
- ☐ Cost Bill
- ☐ Objection to Cost Bill
- ☐ Affidavit
- ☐ Letter
- ☐ Electronic Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- ☒ Personal Restraint Petition (PRP)
- ☐ Response to Personal Restraint Petition
- ☐ Reply to Response to Personal Restraint Petition
- ☐ Other: _____

Comments:

No Comments were entered.

Proof of service is attached

Sender Name: Shirley Diamond - Email: deyounglaw1@gmail.com